

1 CHRISTOPHER A. NEDEAU (CA SBN 81297)
2 CARL L. BLUMENSTEIN (CA SBN 124158)
3 NOSSAMAN LLP
4 50 California Street, 34th Floor
5 San Francisco, CA 94111
6 Telephone: (415) 398-3600
7 Facsimile: (415) 398-2438
8 cnedeau@nossaman.com
9 cblumenstein@nossaman.com

6 Attorneys for Defendants
7 AU Optronics Corporation and
8 AU Optronics Corporation America

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

11 IN RE: TFT-LCD (FLAT PANEL)
12 ANTITRUST LITIGATION

Master File No. 3:07-md-1827 SI
MDL No. 1827

13 THIS DOCUMENT RELATES TO:

14 *AT&T Mobility LLC et al v. AU Optronics*
15 *Corporation, et al.*, Case No. 09-cv-4997

16 *Best Buy Co., Inc., et al. v. AU Optronics*
17 *Corporation, et al.*, Case No. 10-cv-4572

18 *Costco Wholesale Corporation v. AU*
19 *Optronics Corporation, et al.*,
Case No. 11-cv-0058

20 *Dell Inc. et al. v. Sharp Corporation, et al.*,
Case No. 10-cv-1064

21 *Eastman Kodak Company v. Epson Imaging*
22 *Devices Corporation, et al.*,
Case No. 10-cv-5452

23 *Electrograph Systems, Inc., et al. v.*
24 *Epson Imaging Devices Corp., et al.*,
Case No. 10-cv-0117

25 *Motorola, Inc. v. AU Optronics Corporation,*
26 *et al.*, Case No. 09-cv-5840

27 (continued on next page)

**STIPULATION AND [PROPOSED]
RECOMMENDATION AND ORDER
REGARDING AUO PROPOSED
EXPERT WITNESSES**

1 *Target Corp. et al. v. AU Optronics*
 2 *Corporation, et al.*, Case No. 10-cv-4945

3 *TracFone Wireless, Inc. v. AU Optronics*
 4 *Corporation, et al.*, Case No. 10-cv-3205

5 *State of Missouri, et al. v. AU Optronics*
 6 *Corporation, et al.*, Case No. 10-cv-3619

7 *State of Florida v. AU Optronics Corporation,*
 8 *et al.*, Case No. 10-cv-3517

9 The undersigned Direct Action Plaintiffs and State Attorney Generals ("Plaintiffs") and
 10 Defendants AU Optronics Corporation and AU Optronics Corporation America (collectively,
 11 "AUO") hereby stipulate as follows:

12 WHEREAS AUO intends to call certain expert witnesses to testify in its defense in the
 13 action entitled *United States v. AU Optronics Corp., et al.*, Case No. CR-09-0110 (SI) (hereafter
 14 "the Criminal Case") and seeks to call some of those same expert witnesses (hereafter "Proposed
 15 Expert Witnesses"), or some of them, to testify in the above-captioned actions;

16 WHEREAS the parties seek to make mutually agreeable and orderly arrangements for
 17 discovery of the Proposed Expert Witnesses and their proposed testimony, such arrangements to
 18 be scheduled later than the deadlines set forth in the Order re: Pretrial and Trial Schedule (Dkt.
 19 2165) and the Stipulation and Order Modifying Pretrial Schedule for "Track One" Direct Action
 20 Plaintiff and State Attorney General Cases, filed July 14, 2011 (Dkt. No. 3110);

21 WHEREAS, AUO on November 3, 2011 disclosed the Proposed Expert Witnesses,
 22 among others, on whose expert testimony it intends to rely in the above-captioned actions;

23 NOW, THEREFORE, Plaintiffs and AUO, through their undersigned liaison counsel and
 24 counsel, stipulate and request that the Special Master recommend as follows:

25 1. This Stipulated Recommendation and Order pertains only to proposed experts
 26 Dayle Carlson, Dr. Thomas Gold, Dr. Doug Guthrie, Dr. Robert Hall, Dr. Larry Samuelson, Dr.
 27 Richard Schmalensee and Ross Young (hereafter, "Proposed Expert Witnesses"). Within 60
 28 days after the Proposed Expert Witness testifies in the Criminal Case (or within 60 days after the
 Court enters an order excluding the testimony), and so long as the Plaintiffs' experts have

1 already disclosed their reports, AUO will produce the expert's Rule 26 civil disclosures to
2 Plaintiffs in accordance with the Federal Rules and this Court's prior orders governing expert
3 disclosures. So long as Plaintiffs' experts have already given depositions, depositions of the
4 Proposed Expert Witnesses will be scheduled in San Francisco within 45 days after the reports
5 are produced, unless Plaintiffs determine in their sole discretion that a later date would be more
6 appropriate.

7 2. Plaintiffs shall designate rebuttal experts, if any, and produce their Rule 26
8 disclosures within six weeks after the report of each Proposed Expert Witness is received, but in
9 any event no later than 14 days before trial. Plaintiffs need not duplicate material already
10 disclosed in prior reports or depositions given by their experts; all prior reports and deposition
11 testimony of Plaintiffs' experts shall be deemed offered in rebuttal of AUO's Proposed Expert
12 Witnesses to the extent they are relevant. Irrespective of whether the Plaintiffs' experts produce
13 any new reports in response to the reports of the Proposed Expert Witnesses, Plaintiffs' experts
14 can offer testimony at trial critiquing AUO's experts and their analysis. If the Plaintiffs rely on
15 new experts, those experts shall produce reports and shall be deposed.

16 3. With regard to the reports and depositions anticipated by Paragraphs 1 and 2, the
17 parties will meet and confer in good faith an effort to expedite the process, including
18 consideration of whether certain reports or depositions can be eliminated. Both parties will
19 cooperate informally in providing information about the underlying data and analyses used in the
20 reports.

21 4. Unless explicitly stated, nothing in this Stipulation and Order is intended to
22 modify any other Order of the Court or the Special Master, including without limitation the
23 Order re: Pretrial and Trial Schedule filed Nov. 23, 2010 (Dkt. no. 2165 and 2165-1), nor does
24 this Order prevent any party from seeking further modifications to that or any other Order.

25 ///

26 ///

27 ///

28

1 Dated: November 17, 2011

NOSSAMAN LLP

2 By: /s/ Carl L. Blumenstein
3 Carl L. Blumenstein

4 Attorneys for Defendants
5 AU Optronics Corporation and
6 AU Optronics Corporation America

7 Dated: November 17, 2011

CROWELL & MORING LLP

8 By: /s/ Jerome Murphy
9 Jerome Murphy

Liaison Counsel for Direct Action Plaintiffs

10 Dated: November 17, 2011

STATE OF FLORIDA

11 By: /s/ Lizabeth Brady
12 Lizabeth Brady

13 Office of the Attorney General, State of Florida
14 PL-0 1, The Capitol
15 Tallahassee, FL 32399-1050
16 Counsel for Plaintiff State of Florida

17 Dated: November 17, 2011

STATE OF MISSOURI

18 By: /s/ Anne E. Schneider
19 Anne E. Schneider

20 Assistant Attorney General/Antitrust Counsel
21 Missouri Attorney General Office
22 P. O. Box 899
23 Jefferson City, MO 65102
24 Counsel for Plaintiff State of Missouri

25 Dated: November 17, 2011

STATE OF ARKANSAS

26 By: /s/ David A. Curran
27 David A. Curran

28 Assistant Attorney General
Arkansas Attorney General Office
323 Center Street, Suite 500
Little Rock, AR 72201
Counsel for Plaintiff State of Arkansas

(Signatures continued on next page)

1 Dated: November 17, 2011

STATE OF MICHIGAN

2 By: /s/ M. Elizabeth Lippitt
M. Elizabeth Lippitt
3 Assistant Attorney General
Michigan Attorney General Office
4 Corporate Oversight Division
5 525 West Ottawa Street, 6th Floor
Lansing, MI 48933
6 *Counsel for Plaintiff State of Michigan*

7 Dated: November 17, 2011

STATE OF WEST VIRGINIA

8 By: /s/ Douglas L. Davis
Douglas L. Davis
9 Assistant Attorney General
West Virginia Attorney General Office
10 812 Quarrier Street, First Floor
Charleston, WV 25301
11 *Counsel for Plaintiff State of West Virginia*

12 Dated: November 17, 2011

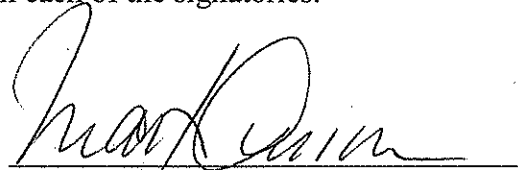
STATE OF WISCONSIN

13 By: /s/ Gwendolyn J. Cooley
Gwendolyn J. Cooley
14 Assistant Attorney General
Wisconsin Department of Justice
15 PO Box 7857
Madison, WI 53707
16 *Counsel for Plaintiff State of Wisconsin*

17
18 Attestation: Pursuant to General Order 45, Part X-B, the filer attests that concurrence in
19 the filing of this document has been obtained from each of the signatories.


20 **IT IS SO RECOMMENDED.**

21 Dated: 11/21/11

22 
Martin Quinn
23 Special Master

24 **IT IS SO ORDERED.**

25 Dated: 11/22/11

26 
The Honorable Susan Illston
27 United States District Judge
28